

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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Case No. S-2678

PETITION OF FARZAM AND FRANCESCA TAMAMI

OPINION OF THE BOARD

(Opinion Adopted December 13, 2006)
(Effective Date of Opinion: January 9, 2007)

Case No. S-2678 is a petition for a special exception, pursuant to Section 59-G-2.36 of the Zoning Ordinance, to permit a non-resident medical practitioner's (dentist) office. The Petitioners also seek a waiver from the requirement in Section 59-E-2.83(d) for shading of parking facilities. The Hearing Examiner for Montgomery County held public hearings on the application on September 29, 2006 and November 13, 2006, closed the record in the case on November 27, 2006, and on December 1, 2006, issued a Report and Recommendation for approval of the special exception.

The subject property is Williamsborough Subdivision; located at 10006 Falls Road, Potomac, Maryland, 20854, in the R-200 Zone.

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| Decision of the Board: | Special Exception and Parking Waiver Granted Subject to Conditions Enumerated Below. |
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The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on December 13, 2006. After careful consideration and review of the record in the case, the Board adopts the Report and Recommendation and grants the special exception, subject to the following conditions:

1. The Petitioners are bound by their testimony, the testimony of their witness and their representations and exhibits of record;

2. The Petitioner's office space is limited to the space it now occupies, and not less than 50% of the floor space shall be maintained for residential use;
3. The Petitioner's hours of operation are limited to 8:00 a.m. to 5 p.m., Monday through Friday, and weekends and evenings as needed for emergencies;
4. There will be no more than one full-time dentist on site at any one time, and Petitioners may employ no more than three full-time (or their part-time equivalent) dental assistants and/or office staff at the subject office at any given time;
5. Petitioners may have up to two scheduled patient appointments per hour;
6. Within 30 days after the effective date of this Resolution, the Petitioners shall contact the State Highway Administration (SHA) to seek a review of the safety issues surrounding the possible closure of the southern driveway, and shall follow SHA's determination. Petitioners must report the results of their contact with SHA, in writing, to the Board, and must seek administrative modification of the site plan if SHA requires changes in the southern driveway after evaluating the safety concerns.
7. Petitioner should install the new landscaping shown on the Landscape and Lighting Plan (Exhibit 26) in the next growing season and should install the new sidewalk shown on the revised Site Plan (Exhibit 22(a)) as soon as weather permits;
8. The parking area should be moved to the rear of the building, as shown on the revised Site Plan (Exhibit 22(a)). That plan shows five spaces for the dental office, including one handicapped accessible space, and two for the residents;
9. Pursuant to Zoning Ordinance §59-E-4.5, a waiver is granted from the shading requirements contained in Zoning Ordinance §59-E-2.83(d) because those requirements are not necessary to accomplish the objectives of Zoning Ordinance §59-E-4.2;
10. All signs placed on the property shall meet the requirements of Section 59-F-4.2(a) in terms of number, location and area and Section 59-F-4.1(e) regarding illumination. Furthermore, a permit must be obtained for the sign, and a copy of it filed with the Board of Appeals; and

11. Petitioners must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioners shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

On a motion by Catherine G. Titus, seconded by Wendell M. Holloway, with Caryn L. Hines and Donna L. Barron, Vice-Chair in agreement and Allison Ishihara Fultz, Chair necessarily absent, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.



Donna L. Barron
Vice-Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 9th day of January, 2007.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.